REMARKS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Applicants have cancelled claims 1-33 without prejudice or disclaimer and present new claims 34-36, thus rendering the previous rejections moot. Applicants do not acquiesce to the combining of the references in order to teach what the Examiner asserts that they teach. However, to further prosecution in this case, Applicants have presented several new claims for examination.

Applicants note that new claims 34-36 focus on an image file having a background and marked features on the on the image file associated with the animated entity. A discussion of the features may be found on pages 15 and 18 of the present application. Applicants note that previously, claim 28 recited the step of presenting the sender with background choices for selecting the animated entity. Section (2) presented the user with a background associated with the received image file wherein the animated entity has the same size as the image file. The Office Action compared Noot et al., Section 3.6.2 as teaching this feature regarding sizing a background image where the animated entity is unchanged from the original size. Applicants respectfully submit that Noot et al., even with its sparse discussion of the background image, fails to teach each limitation of new claim 34.

The Examiner cites paragraph [0004] on page 16 under Section 3.6.2 which teaches that in the case of a parameter adaptdrawingsize, enlarging the windows results in a larger drawing area without scaling the drawing and reducing the window results in hiding part of the drawing again without scaling. Noot et al. teach that in any case an unsizing can be done by the inverse resize and that the effect can be made permanent by a save in which the drawing has been saved to the size shown on the screen at the time of the save. While this disclosure generally relates to

enlarging and reducing a drawing area with or without scaling, Applicants note that there is no reference to a background image in this paragraph, the Examiner's assertion that the size the background image and the animated entity are unchanged from their original size just to pour a little bit more content into the disclosure then what is objectively within the scope of the reference.

Furthermore, Applicants note that on pages 7 and 8 of the Office Action which discuss other aspects of claim 28 related to a background, the Office Action sites Section 3.5 of Noot et al. Here, in Figure 3, they disclose a foreground on a background. However, the background is shown as a face and hat without the movable components of the eyes and mouth. Section 3.5 of Noot et al. simply teach the basic concept of ranking components of the animated entity, such that there may be a background such as the face and nose which would be ranked 0 and a ranking of 1 may be provided for another feature like eyes and a hat and rank 2 for a stripe on the hat. What is taught in Noot et al. is simply the concept of layering based on these ranking components of a face. In other words, here they do not disclose in this portion of the reference the particular steps associated with a background as is defined in new claim 34. Notably, it is clear that the teachings in Figure 3 include require defining the background as part of an animated entity such as the face. In claim 34, the background is consistent with the use of the term "background" in the specification in which is the background that is separate from the animated entity and is discussed in the context of an animated entity and is discussed in the context of an animated entity having a separate background all of which are comprised in the image file.

The bottom of page 13 references plate 13 which is also referenced by the Examiner in which Noot et al. state "By careful layering an effect of depth or 3D perspective can be achieved (see Plate 13)." Applicants note that plate 13 simply illustrates scenery and nothing to do with

an animated entity. In fact, the last four lines of page 13 of Noot et al. certainly highlight that it is exclusively the background which is being discussed and not the animated entity. Here, they teach "As a consequence, put components into the background which: 1) do not change shape, size and position during animation and 2) do not partially cover a changing component." Applicants note that this teaches directly away from the present invention in which they carefully articulate what characteristics the background has. In other words, the scenery of plate 13 is a background that does not change shape, size or position during animation and does not partially cover a changing component. Applicants note that the focus of Noot et al. in this portion of the reference is on simply covering a foreground which may include such features as eyes, a mustache and a mouth on a background which may be a face or other components of a background such as taught in plate 13. These are commonly taught in the contents as simply using the set rank feature of Noot et al. to simply assign a rank to a foreground or a background component.

There are features within claim 34 that are not taught in this reference. Notably, they do not teach receiving from a sender marked features on an image file associated with an animated entity in the context of background and then delivering a multimedia message comprising the background wherein the animated entity speaks and moves in the context of the background and wherein as the animated entity moves an extrapolation method fills the voids between the animated entity and the background. This particular feature which is useful in a context, by way of example, of a user who desires a vacation picture in which the picture includes the remote sender as well as the background image, such a user can submit the image and then provide marked features on the image file that are associated with the user desires to be the animated entity. Then, the system delivers the message comprising the background and the animated entity that speaks and moves and with the additional feature of extrapolation provides the illusion
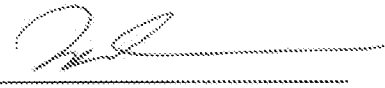
that the animated entity is speaking in the context of the background environment found in the received image file. Applicants respectfully submit that such feature is not taught or suggested in Noot et al. or the combination of references. Accordingly, Applicants submit that references 34-36 are patentable and in condition for allowance.

CONCLUSION

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Law Office of Thomas M. Isaacson, LLC**, **Account No. 50-2960** for any deficiency or overpayment.

Respectfully submitted,

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By: _____

Thomas M. Isaacson

Correspondence Address:
Thomas A. Restaino
Reg. No. 33,444
AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster, NJ 07921

Attorney for Applicants
Reg. No. 44,166
Phone: 410-286-9405
Fax No.: 410-510-1433

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